Mutual Life Ins. Co. v. *Wilkinson*, 13 Wall. (U. S.) 222. *A fortiori* he does so in undertaking to forward it to headquarters. It follows that when the defendant, through its authorized agent, received the application for transmission to its home office, it became liable for failure to transmit it, in accordance with the principle stated above. This liability, since it grew out of the relation of agency toward the applicant, which the defendant assumed, sounds in tort. *Robinson* v. *Threadgill, supra.* There is no logical difficulty in a corporation's becoming bound to submit an offer to one of its own departments when it has actually undertaken so to do. The principal case therefore seems correctly decided. *Boyer* v. *State Farmer's Mut. Hail Ins. Co.*, 86 Kan. 442, 121 Pac. 329.

LIBEL AND SLANDER — PRIVILEGED COMMUNICATIONS — EFFECT ON PRINTER OF MALICE IN AUTHOR. — The plaintiff sued jointly the author and the printer of a certain pamphlet, for defamatory statements therein contained. The occasion was privileged as regards the author, but he was actuated by malice. There was no malice in the printer. *Held*, that both were jointly liable. *Smith* v. *Streatfeild*, 29 T. L. R. 707.

The publisher and the author of defamatory matter can be sued jointly for the publication. *Munson* v. *Lathrop*, 96 Wis. 386, 71 N. W. 596. Such a publication is actionable *per se*, subject, however, to such defenses as truth and privilege. *Bromage* v. *Prosser*, 4 B. & C. 247; *Ullrich* v. *New York Press. Co.*, 23 Misc. (N. Y.) 168, 50 N. Y. Supp. 788. The reasoning of the present case is not free from the confusion which has followed the doctrine of legal malice, and its rebuttal by proof of privilege. See *Jackson* v. *Hopperton*, 12 Wkly R. 913. The result can be reached by straightforward reasoning without reverting to any such antique fiction. See 60 Univ. of Pa. L. Rev. 365. In the principal case the printer published at his peril. He himself had no defense of privilege. Had there been no malice, he would have acquired a *primâ facie* defense by virtue of the author's privilege. *Baker* v. *Carrick*, [1894] 1 Q. B. 838. But there was malice in the author, hence the author's *primâ facie* defense of privilege fell. *Stevens* v. *Sampson*, 5 Ex. D. 53. Thus having no defense himself, and acquiring none from the author, the printer's absolute liability remained, making him jointly liable.

NEGLIGENCE — DEFENSES — ILLEGAL ACT OF PLAINTIFF. — The plaintiff while riding in an unregistered automobile, was injured at a railroad crossing through the negligence of the defendant railroad. *Held*, that the plaintiff may recover. *Lockbridge* v. *Minneapolis & St. L. Ry. Co.*, 140 N. W. 834 (Ia.).

The plaintiff's intestate while acting as engineer of the defendant's train was killed when the engine left the track. Although the rail was defective, the accident would not have occurred had the deceased not been exceeding the speed limit of four miles an hour fixed by a municipal ordinance. *Held*, that the plaintiff may not recover. *Southern Ry. Co.* v. *Rice's Adm'x*, 73 S. E. 592 (Va.).

The weight of authority holds that a plaintiff's breach of a criminal statute is equivalent to contributory negligence. *Newcomb* v. *Boston Protective Department*, 146 Mass. 596; *Weller* v. *Chicago, M. & St. P. Ry. Co.*, 120 Mo. 635, 23 S. W. 1061. The plaintiff, however, is barred only when his act is the legal cause of the injury. *Berry* v. *Sugar Notch Borough*, 191 Pa. 345, 43 Atl. 240. Upon consideration merely of causation the Iowa case, where the plaintiff's act was mere collateral wickedness, correctly permitted recovery; while the opposite result seems proper in the Virginia case, where the statutory breach contributed directly to the wreck. But because of other considerations the correctness of each case is doubtful. In the Iowa case the plaintiff could not recover if regarded as a trespasser, unless wilfully or wantonly mistreated. *Gwynn* v. *Duffield*, 66 Ia. 708, 24 N. W. 523. The Massachusetts court

has reached a result squarely opposed to the Iowa case, by holding an unregistered automobile a trespasser, although there also the plaintiff was a trespasser as against the defendant only because of the defendant's rights upon the highway by virtue of the public easement. *Dudley* v. *Northampton St. Ry. Co.*, 202 Mass. 443, 89 N. E. 25; *Chase* v. *New York Central & H. R. R.*, 208 Mass. 137, 94 N. E. 377. Other courts are not inclined to hold an unlicensed automobile a trespasser. *Hemming* v. *City of New Haven*, 82 Conn. 661, 74 Atl. 892; *Atlantic C. L. R. Co.* v. *Weir*, 63 Fla. 69, 58 So. 641. An analogy which would argue against recovery in the Iowa case is to be found in the cases which hold that one traveling contrary to a Sunday statute is so far an outlaw that no duty of care as to the highway is owed him. *Johnson* v. *Irasburg*, 47 Vt. 28. Where the accident was the result of collision and not of derailment the courts have held that the plaintiff's breach of a statute, similar to the one in the Virginia case, prevented his recovery. *Missouri, K. & T. Co.* v. *Roberts*, 46 S. W. 270 (Tex.); *Little* v. *Southern Ry. Co.*, 120 Ga. 347, 47 S. E. 953. However, in the principal case the speed ordinance of four miles an hour was passed undoubtedly to protect wayfarers, not to prevent engine derailment. Now when a defendant violates a statute irrelevant to the injury resulting, the breach is not held negligence. *Gorris* v. *Scott*, L. R. 9 Exch. 125. The courts have generally disregarded this distinction in the case of plaintiffs. *Contra, Watts* v. *Montgomery Traction Co.*, 57 So. 471 (Ala.). It is submitted that there is no sufficient reason for a different test for plaintiffs than defendants, and that the plaintiff should not be barred by his breach of a statute not passed to prevent the injury sustained.

OFFER AND ACCEPTANCE — UNILATERAL CONTRACTS — MISTAKE IN TRANSMISSION OF OFFER BY TELEGRAPH COMPANY. — The defendant incorrectly transmitted the specifications in the plaintiff's telegraphic order for machinery. The addressee accepted the offer according to the altered specifications. The plaintiff received the machines and paid the price. Subsequently the plaintiff took an assignment of, and now sues on, the addressee's rights against the defendant. *Held*, that the plaintiff may recover. *Jackson Lumber Co.* v. *Western Union Tel. Co.*, 62 So. 266 (Ala.).

The responsibility of an offeror for a telegraphic offer delivered in an altered form has been much disputed. Many courts deny his liability. *Pepper* v. *Western Union Tel. Co.*, 87 Tenn. 554, 11 S. W. 783. But the weight of authority supports the better view, namely, that the offeror's intent as expressed to the reasonable offeree must govern, and that a valid contract arises on the acceptance of the offer received. *Haubelt* v. *Rea, etc. Mill Co.*, 77 Mo. App. 672. See 24 HARV. L. REV. 244. The sender may then hold the telegraph company directly for his loss. *Ayer* v. *Western Union Tel. Co.*, 79 Me. 493, 10 Atl. 495. The principal case, however, assumes that there is no contract and allows the sender to recover on the assignment of the addressee's right of action in tort against the defendant for the damage suffered in acting upon a telegram negligently transmitted. *New York, etc. Tel. Co.* v. *Dryburg*, 35 Pa. St. 298. See 19 HARV. L. REV. 474. The introduction of this tort liability in favor of the addressee as the basis of the action is, at best, difficult to support on legal theory. *Dickson* v. *Reuter's Tel. Co.*, L. R. 3 C. P. D. 1. In the principal case, moreover, the action would fail for want of damage to the addressee if the sender were held to the contract, or if the payment made should be construed as mitigating the addressee's damages instead of subrogating the plaintiff to the addressee's rights.

PARENT AND CHILD — ABDUCTION OF CHILD — RELATION OF MASTER AND SERVANT NOT ESSENTIAL TO RECOVERY. — In an action by a father for the abduction of a child of seven years, the complaint contained no allegation of loss